

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Gregg Lurie, Heidi Kaliher, and Tracy
Knight individually, and on behalf of
those similarly situated,

Plaintiffs,

v.

North Memorial Health Care,
d/b/a North Memorial Health,

Defendant.

Case No. 23-cv-00440 (KMM/TNL)

**DEFENDANT’S ANSWER TO
PLAINTIFFS’ SECOND AMENDED
CLASS ACTION COMPLAINT**

Jury Trial Demanded

Defendant North Memorial Health Care (“Defendant”) makes the following Answer to the Second Amended Class Action Complaint (“Complaint”) of Plaintiffs Gregg Lurie, Heidi Kaliher, and Tracy Knight (“Plaintiffs”), on behalf of themselves, and on behalf of those similarly situated. Defendant denies each and every allegation contained in the Complaint unless hereafter admitted, qualified, or otherwise answered. Defendant includes Plaintiffs’ headings for reference only, and to the extent that any heading contains an allegation, Defendant denies all such allegations.

INTRODUCTION

1. With respect to Plaintiffs’ characterization of the Complaint and this Action in Paragraph 1, Defendant states that the Complaint speaks for itself. Defendant denies any remaining allegations in this Paragraph.

2. With respect to Paragraph 2, Defendant admits only that it provides a website. As to the remaining allegations, Defendant states that the referenced document speaks for itself and denies all allegations inconsistent with the referenced document.

3. Defendant denies Paragraph 3.

4. With respect to Paragraph 4, Defendant admits only that it provides a website. As to the remaining allegations, Defendant states that the referenced documents speak for themselves and denies all allegations inconsistent with the referenced documents. Defendant denies any remaining allegations in this Paragraph.

5. With respect to Paragraph 5, Defendant states that it lacks sufficient knowledge or information to admit or deny any allegation regarding Plaintiffs' awareness or how Pixel is "routinely used." With respect to the documents referenced in Paragraph 5, Defendant states that the referenced documents speak for themselves and denies all allegations inconsistent with the referenced documents. Defendant denies any remaining allegations in this Paragraph.

6. With respect to Paragraph 6, Defendant admits only that Plaintiffs were patients of North Memorial. With respect to the documents referenced in Paragraph 6, Defendant states that the referenced documents speak for themselves and denies all allegations inconsistent with the referenced documents. Defendant denies any remaining allegations in this Paragraph.

7. With respect to Paragraph 7, Defendant states that the referenced documents speak for themselves and denies all allegations inconsistent with the referenced documents. Defendant denies any remaining allegations in this Paragraph.

8. Defendant denies the allegations in Paragraph 8.
9. Defendant denies the allegations in Paragraph 9.
10. Defendant denies the allegations in Paragraph 10.
11. Defendant denies the allegations in Paragraph 11.
12. Defendant denies the allegations in Paragraph 12.
13. Defendant denies the allegations in Paragraph 13.
14. With respect to Paragraph 14, the Complaint speaks for itself. Defendant denies any remaining allegations in this Paragraph.

JURISDICTION AND VENUE

15. Paragraph 15 contains legal assertions to which no response is required. To the extent a response is required, Defendant denies the allegations in this Paragraph.

16. With respect to Paragraph 16, Defendant admits only that it is a Minnesota corporation; that its principal office is located at 3300 North Oakdale Avenue, Robbinsdale, MN 55422; and that Plaintiffs received health care from Defendant in the State of Minnesota. Defendant lacks sufficient knowledge or information to admit or deny any other allegations regarding Plaintiffs. Further, Paragraph 16 contains legal assertions to which no response is required. Defendant denies any remaining allegations in this Paragraph.

17. With respect to Paragraph 17, Defendant admits only that its headquarters are located in Minnesota. Paragraph 17 contains legal assertions to which no response is required. Defendant denies any remaining allegations in this Paragraph.

PARTIES

18. Defendant lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 18.

19. With respect to Paragraph 19, Defendant admits only that Plaintiff Lurie has received services from Defendant. Defendant lacks sufficient knowledge or information to admit or deny any other allegations relating to Plaintiff's actions in Paragraph 19. With respect to the documents referenced in Paragraph 19, Defendant states that the referenced documents speak for themselves and denies all allegations inconsistent with the referenced documents. Defendant denies any remaining allegations in this Paragraph.

20. With respect to Paragraph 20, Defendant lacks sufficient knowledge or information to admit or deny the allegations relating to Plaintiff's actions. Defendant denies the remaining allegations in this Paragraph.

21. With respect to Paragraph 21, Defendant states that the referenced documents speak for themselves and denies all allegations inconsistent with the referenced documents. Defendant denies any remaining allegations in this Paragraph.

22. Defendant lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 22.

23. Defendant denies the allegations in Paragraph 23.

24. Defendant denies the allegations in Paragraph 24.

25. Defendant lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 25.

26. Defendant lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 26.

27. With respect to Paragraph 27, Defendant admits only that Plaintiff Kaliher has received services from Defendant. Defendant lacks sufficient knowledge or information to admit or deny any other allegations relating to Plaintiff's actions in Paragraph 27. With respect to the documents referenced in Paragraph 27, Defendant states that the referenced documents speak for themselves and denies all allegations inconsistent with the referenced documents. Defendant denies any remaining allegations in this Paragraph.

28. With respect to Paragraph 28, Defendant lacks sufficient knowledge or information to admit or deny the allegations relating to Plaintiff's actions. Defendant denies the remaining allegations in this Paragraph.

29. With respect to Paragraph 29, Defendant states that the referenced documents speak for themselves and denies all allegations inconsistent with the referenced documents. Defendant denies any remaining allegations in this Paragraph.

30. Defendant lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 30.

31. Defendant denies the allegations in Paragraph 31.

32. Defendant denies the allegations in Paragraph 32.

33. Defendant lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 33.

34. Defendant lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 34.

35. With respect to Paragraph 35, Defendant admits only that Plaintiff Knight has received services from Defendant. Defendant lacks sufficient knowledge or information to admit or deny any other allegations relating to Plaintiff's actions in Paragraph 35. With respect to the documents referenced in Paragraph 35, Defendant states that the referenced documents speak for themselves and denies all allegations inconsistent with the referenced documents. Defendant denies any remaining allegations in this Paragraph.

36. Defendant lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 36.

37. Defendant lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 37.

38. With respect to Paragraph 38, Defendant states that the referenced documents speak for themselves and denies all allegations inconsistent with the referenced documents. Defendant denies any remaining allegations in this Paragraph.

39. Defendant denies the allegations in Paragraph 39.

40. Defendant denies the allegations in Paragraph 40.

41. Defendant lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 41.

42. Paragraph 42 contains legal assertions to which no response is required. To the extent a response is required, Defendant denies the allegations in this Paragraph. Defendant denies any remaining allegations in this Paragraph.

43. Defendant admits the allegations in Paragraph 43.

44. Defendant denies the allegations in Paragraph 44.

FACTUAL BACKGROUND

A. Defendant Collected, Maintained and Stored Sensitive Information

45. Defendant admits Paragraph 45.

46. With respect to Paragraph 46, Defendant admits only that it maintains certain information in connection with providing patient care but denies Plaintiffs' characterization of that information. Defendant further states that the documents referenced in Paragraph 46 speak for themselves and denies all allegations inconsistent with the referenced documents. Defendant denies any remaining allegations in this Paragraph.

47. With respect to Paragraph 47, Defendant states that the documents referenced speak for themselves and denies all allegations inconsistent with the referenced documents. Defendant denies any remaining allegations in this Paragraph.

48. With respect to Paragraph 48, Defendant states that the document referenced speaks for itself and denies all allegations inconsistent with the referenced document.

49. With respect to Paragraph 49, Defendant states that the document speaks for itself and denies all allegations inconsistent with the referenced documents. Defendant further states that Paragraph 49 contains legal assertions to which no response is required.

To the extent a response is required, Defendant denies the allegations in this Paragraph. Defendant denies any remaining allegations in this Paragraph.

50. Paragraph 50 contains legal assertions to which no response is required. To the extent a response is required, Defendant denies the allegations in this Paragraph. Defendant denies any remaining allegations in this Paragraph.

51. Paragraph 51 contains legal assertions to which no response is required. To the extent a response is required, Defendant denies the allegations in this Paragraph. Defendant denies any remaining allegations in this Paragraph.

52. Paragraph 52 contains legal assertions to which no response is required. To the extent a response is required, Defendant denies the allegations in this Paragraph. Defendant denies any remaining allegations in this Paragraph.

B. Defendant Exposed Its Patients' Sensitive Information

53. With respect to Paragraph 53, Defendant states that the documents referenced speak for themselves and denies all allegations inconsistent with the referenced documents. Defendant denies any remaining allegations in this Paragraph.

54. Paragraph 54 contains a hypothetical to which no response is required as there are no factual allegations to admit or deny. To the extent a response is required, Defendant lacks sufficient knowledge or information to admit or deny the allegations. With respect to the documents referenced in Paragraph 54, Defendant states that the documents referenced speak for themselves and denies all allegations inconsistent with the referenced documents. Defendant denies any remaining allegations in this Paragraph.

55. Defendant lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 55.

56. Paragraph 56 contains legal assertions to which no response is required. To the extent a response is required, Defendant denies the allegations in this Paragraph. Defendant denies any remaining allegations in this Paragraph.

57. Paragraph 57 contains legal assertions to which no response is required. To the extent a response is required, Defendant denies the allegations in this Paragraph. Defendant denies any remaining allegations in this Paragraph.

58. Defendant denies the allegations in Paragraph 58.

59. Paragraph 59 contains legal assertions to which no response is required. To the extent a response is required, Defendant denies the allegations in this Paragraph. Defendant denies any remaining allegations in this Paragraph.

C. The Meta Pixel

60. Defendant lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 60.

61. Defendant lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 61.

62. Defendant lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 62.

63. Defendant lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 63.

64. With respect to Paragraph 64, Defendant states that the documents referenced speak for themselves and denies all allegations inconsistent with the referenced documents. Defendant lacks sufficient knowledge or information to admit or deny any remaining allegations in this Paragraph.

65. Paragraph 65 contains a hypothetical to which no response is required as there are no factual allegations to admit or deny. To the extent a response is required, Defendant lacks sufficient knowledge or information to admit or deny the allegations. With respect to the documents referenced in Paragraph 65, Defendant states that the documents referenced speak for themselves and denies all allegations inconsistent with the referenced documents. Defendant denies any remaining allegations in this Paragraph.

66. With respect to Paragraph 66, Defendant states that the documents referenced speak for themselves and denies all allegations inconsistent with the referenced documents. Defendant denies any remaining allegations in this Paragraph.

67. With respect to Paragraph 67, Defendant states that the documents referenced speak for themselves and denies all allegations inconsistent with the referenced documents. Defendant lacks sufficient knowledge or information to admit or deny any remaining allegations in this Paragraph.

68. With respect to Paragraph 68, Defendant states that the documents referenced speak for themselves and denies all allegations inconsistent with the referenced documents. Defendant lacks sufficient knowledge or information to admit or deny any remaining allegations in this Paragraph.

69. Paragraph 69 contains a hypothetical to which no response is required as there are no factual allegations to admit or deny. To the extent a response is required, Defendant lacks sufficient knowledge or information to admit or deny the allegations. With respect to the documents referenced in Paragraph 69, Defendant states that the documents referenced speak for themselves and denies all allegations inconsistent with the referenced documents. Defendant lacks sufficient knowledge or information to admit or deny any remaining allegations in this Paragraph.

70. With respect to Paragraph 70, Defendant states that the documents referenced speak for themselves and denies all allegations inconsistent with the referenced documents. Defendant lacks sufficient knowledge or information to admit or deny any remaining allegations in this Paragraph.

71. With respect to Paragraph 71, Defendant states that the documents referenced speak for themselves and denies all allegations inconsistent with the referenced documents. Defendant denies any remaining allegations in this Paragraph.

72. Paragraph 72 contains a hypothetical to which no response is required as there are no factual allegations to admit or deny. To the extent a response is required, Defendant lacks sufficient knowledge or information to admit or deny the allegations. With respect to the documents referenced in Paragraph 72, Defendant states that the documents referenced speak for themselves and denies all allegations inconsistent with the referenced documents. Defendant denies any remaining allegations in this Paragraph.

73. Paragraph 73 contains a hypothetical to which no response is required as there are no factual allegations to admit or deny. To the extent a response is required,

Defendant lacks sufficient knowledge or information to admit or deny the allegations. With respect to the documents referenced in Paragraph 73, Defendant states that the documents referenced speak for themselves and denies all allegations inconsistent with the referenced documents. Defendant denies any remaining allegations in this Paragraph.

74. Defendant lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 74.

D. Defendant Employed Pixel on its Websites to Allow Meta to Intercept Communications and Class Members' Sensitive Information.

75. Defendant denies Paragraph 75.

76. Paragraph 76 contains a hypothetical to which no response is required as there are no factual allegations to admit or deny. To the extent a response is required, Defendant lacks sufficient knowledge or information to admit or deny the allegations.

a. Subparagraph 76.a contains hypotheticals to which no response is required as there are no factual allegations to admit or deny. To the extent a response is required, Defendant lacks sufficient knowledge or information to admit or deny the allegations. Defendant lacks sufficient knowledge or information to admit or deny any remaining allegations in this Subparagraph.

b. Subparagraph 76.b contains hypotheticals to which no response is required as there are no factual allegations to admit or deny. To the extent a response is required, Defendant lacks sufficient knowledge or information to admit or deny the allegations. With respect to the

documents referenced in Subparagraph 76.b, Defendant states that the documents referenced speak for themselves and denies all allegations inconsistent with the referenced documents. Defendant lacks sufficient knowledge or information to admit or deny any remaining allegations in this Subparagraph.

- c. Subparagraph 76.c contains hypotheticals to which no response is required as there are no factual allegations to admit or deny. To the extent a response is required, Defendant lacks sufficient knowledge or information to admit or deny the allegations. Defendant lacks sufficient knowledge or information to admit or deny any remaining allegations in this Subparagraph.

77. Paragraph 77 contains hypotheticals to which no response is required as there are no factual allegations to admit or deny. To the extent a response is required, Defendant lacks sufficient knowledge or information to admit or deny the allegations. To the extent that Paragraph 77 references documents, Defendant states that the documents referenced speak for themselves and denies all allegations inconsistent with the referenced documents. Defendant lacks sufficient knowledge or information to admit or deny any remaining allegations in this Paragraph.

78. With respect to Paragraph 78, Defendant states that the specifically referenced document (Defendant's website) speaks for itself and denies all allegations inconsistent with the referenced documents. Defendant lacks sufficient knowledge or

information to admit or deny any remaining allegations in Paragraph 78 including those related to any other website.

79. Paragraph 79 contains hypotheticals to which no response is required as there are no factual allegations to admit or deny. To the extent a response is required, Defendant lacks sufficient knowledge or information to admit or deny the allegations. With respect to the documents referenced in Paragraph 79, Defendant states that the documents referenced speak for themselves and denies all allegations inconsistent with the referenced documents. Defendant denies any remaining allegations in this Paragraph.

80. With respect to Paragraph 80, Defendant states that the documents referenced speak for themselves and denies all allegations inconsistent with the referenced documents. Defendant denies any remaining allegations in this Paragraph.

81. Defendant denies Paragraph 81.

82. With respect to Paragraph 82, Defendant states that the documents referenced speak for themselves and denies all allegations inconsistent with the referenced documents. Defendant lacks sufficient knowledge or information to admit or deny any remaining allegations in this Paragraph.

83. Defendant denies Paragraph 83.

84. Paragraph 84 contains a hypothetical to which no response is required as there are no factual allegations to admit or deny. To the extent a response is required, Defendant lacks sufficient knowledge or information to admit or deny the allegations. With respect to the documents referenced in Paragraph 84, Defendant states that the documents referenced speak for themselves and denies all allegations inconsistent with the referenced

documents. To the extent that Figure 1, including its caption, following this Paragraph is construed as an allegation, Defendant states that the image references a document which speaks for itself. Defendant denies all allegations inconsistent with the referenced document. Defendant denies any remaining allegations in this Paragraph.

85. Paragraph 85 contains a hypothetical to which no response is required as there are no factual allegations to admit or deny. To the extent a response is required, Defendant lacks sufficient knowledge or information to admit or deny the allegations. With respect to the documents referenced in Paragraph 85, Defendant states that the documents referenced speak for themselves and denies all allegations inconsistent with the referenced documents. To the extent that Figure 2, including its caption, following this Paragraph is construed as an allegation, Defendant states that the image references a document which speaks for itself. Defendant denies all allegations inconsistent with the referenced document. Defendant denies any remaining allegations in this Paragraph.

86. Paragraph 86 contains a hypothetical to which no response is required as there are no factual allegations to admit or deny. To the extent a response is required, Defendant lacks sufficient knowledge or information to admit or deny the allegations. With respect to the documents referenced in Paragraph 86, Defendant states that the documents referenced speak for themselves and denies all allegations inconsistent with the referenced documents. To the extent that Figure 3, including its caption, following this Paragraph is construed as an allegation, Defendant states that the image references a document which speaks for itself. Defendant denies all allegations inconsistent with the referenced document. Defendant denies any remaining allegations in this Paragraph.

87. Paragraph 87 contains a hypothetical to which no response is required as there are no factual allegations to admit or deny. To the extent a response is required, Defendant lacks sufficient knowledge or information to admit or deny the allegations. With respect to the documents referenced in Paragraph 87, Defendant states that the documents referenced speak for themselves and denies all allegations inconsistent with the referenced documents. To the extent that Figures 4 and 5, including their captions, following this Paragraph are construed as allegations, Defendant states that the images reference documents which speak for themselves. Defendant denies all allegations inconsistent with the referenced documents. Defendant denies any remaining allegations in this Paragraph.

88. Paragraph 88 contains a hypothetical to which no response is required as there are no factual allegations to admit or deny. To the extent a response is required, Defendant lacks sufficient knowledge or information to admit or deny the allegations. With respect to the documents referenced in Paragraph 88, Defendant states that the referenced documents speak for themselves and denies all allegations inconsistent with the referenced documents. To the extent that Figure 5 referenced by this Paragraph is construed as an allegation, Defendant states that the image references a document which speaks for itself. Defendant denies all allegations inconsistent with the referenced document. Defendant denies any remaining allegations in this Paragraph.

89. Paragraph 89 contains a hypothetical to which no response is required as there are no factual allegations to admit or deny. To the extent a response is required, Defendant lacks sufficient knowledge or information to admit or deny the allegations. With respect to the documents referenced in Paragraph 89, Defendant states that the referenced

documents speak for themselves and denies all allegations inconsistent with the referenced documents. To the extent that the images after this Paragraph are construed as allegations, Defendant states that the images reference documents which speak for themselves. Defendant denies all allegations inconsistent with the referenced documents. Defendant denies any remaining allegations in this Paragraph.

90. With respect to Paragraph 90, Defendant states that the referenced documents speak for themselves and denies all allegations inconsistent with the referenced documents. To the extent that images referenced by this Paragraph are construed as allegations, Defendant states that the images reference documents which speak for themselves. Defendant denies all allegations inconsistent with the referenced documents. Defendant denies any remaining allegations in this Paragraph.

91. Defendant denies Paragraph 91.

92. With respect to Paragraph 92, Defendant states that the documents referenced speak for themselves and denies all allegations inconsistent with the referenced documents. Defendant denies any remaining allegations in this Paragraph.

93. Defendant denies Paragraph 93.

E. Exposure of Sensitive Information Creates a Substantial Risk of Harm

94. With respect to Paragraph 94, Defendant states that the referenced documents speak for themselves and denies all allegations inconsistent with the referenced documents. Defendant denies any remaining allegations in this Paragraph.

95. With respect to Paragraph 95, Defendant states that the documents referenced speak for themselves and denies all allegations inconsistent with the referenced documents. Defendant denies any remaining allegations in this Paragraph.

96. With respect to Paragraph 96, Defendant states that the documents referenced speak for themselves and denies all allegations inconsistent with the referenced documents. Further, Paragraph 96 contains legal assertions to which no response is required. Defendant lacks sufficient knowledge or information to admit or deny any remaining allegations in this Paragraph.

F. Plaintiffs' and the Class's Sensitive Information is Valuable.

97. With respect to Paragraph 97, Defendant states that the document referenced speaks for itself and denies all allegations inconsistent with the referenced document.

98. With respect to Paragraph 98, Defendant states that the document referenced speaks for itself and denies all allegations inconsistent with the referenced document.

99. With respect to Paragraph 99, Defendant states that the document referenced speaks for itself and denies all allegations inconsistent with the referenced document.

100. With respect to Paragraph 100, Defendant states that the document referenced speaks for itself and denies all allegations inconsistent with the referenced document.

101. With respect to Paragraph 101, Defendant states that the document referenced speaks for itself and denies all allegations inconsistent with the referenced document.

102. With respect to Paragraph 102, Defendant states that the document referenced speaks for itself and denies all allegations inconsistent with the referenced document.

103. With respect to 103, Defendant states that the document referenced speaks for itself and denies all allegations inconsistent with the referenced document. Further, Paragraph 103 contains legal assertions to which no response is required. Defendant denies any remaining allegations in this Paragraph.

104. With respect to Paragraph 104, Defendant states that the document referenced speaks for itself and denies all allegations inconsistent with the referenced document.

105. Defendant denies Paragraph 105.

106. With respect to Paragraph 106, Defendant states that the document referenced speaks for itself and denies all allegations inconsistent with the referenced document.

107. Paragraph 107 contains legal assertions to which no response is required. Defendant denies any remaining allegations in this Paragraph.

108. With respect to Paragraph 108, Defendant states that the referenced documents speak for themselves and denies all allegations inconsistent with the referenced documents. Defendant denies any remaining allegations in this Paragraph.

109. With respect to Paragraph 109, Defendant states that the documents referenced speak for themselves and denies all allegations inconsistent with the referenced documents.

G. Plaintiffs and the Class Had a Reasonable Expectation of Privacy in Their Interaction with Defendant's Website and Application.

110. Paragraph 110 contains hypotheticals to which no response is required as there are no factual allegations to admit or deny. To the extent a response is required, Defendant lacks sufficient knowledge or information to admit or deny the allegations.

111. With respect to Paragraph 111, Defendant states that the documents referenced speak for themselves and denies all allegations inconsistent with the referenced documents.

112. With respect to Paragraph 112, Defendant states that the documents referenced speak for themselves and denies all allegations inconsistent with the referenced documents.

113. With respect to Paragraph 113, Defendant states that the documents referenced speak for themselves and denies all allegations inconsistent with the referenced documents.

114. With respect to Paragraph 114, Defendant states that the documents referenced speak for themselves and denies all allegations inconsistent with the referenced documents.

115. With respect to Paragraph 115, Defendant states that the document referenced speaks for itself and denies all allegations inconsistent with the referenced document.

116. Paragraph 116 contains hypotheticals to which no response is required as there are no factual allegations to admit or deny. To the extent a response is required, Defendant lacks sufficient knowledge or information to admit or deny the allegations.

H. Defendant's Conduct Violated HIPAA.

117. With respect to Paragraph 117, Defendant states that the document referenced speaks for itself and denies all allegations inconsistent with the referenced document. Further, Paragraph 117 contains legal assertions to which no response is required. Defendant denies any remaining allegations in this Paragraph.

118. With respect to Paragraph 118, Defendant states that the documents referenced speak for themselves and denies all allegations inconsistent with the referenced documents. Further, Paragraph 118 contains legal assertions to which no response is required. Defendant denies any remaining allegations in this Paragraph.

119. With respect to Paragraph 119, Defendant states that the documents referenced speak for themselves and denies all allegations inconsistent with the referenced documents. Further, Paragraph 119 contains legal conclusions to which no response is required. Defendant denies any remaining allegations in this Paragraph.

120. With respect to Paragraph 120, Defendant states that the documents referenced speak for themselves and denies all allegations inconsistent with the referenced documents. Further, Paragraph 120 contains legal conclusions to which no response is required. Defendant denies any remaining allegations in this Paragraph.

121. Paragraph 121 and its subparagraphs contains legal conclusions to which no response is required. Defendant denies any remaining allegations in this Paragraph and its subparagraphs.

122. With respect to Paragraph 122, Defendant states that the document referenced speaks for itself and denies all allegations inconsistent with the referenced document. Further, Paragraph 122 contains legal conclusions to which no response is required.

123. With respect to Paragraph 123, Defendant states that the document referenced speaks for itself and denies all allegations inconsistent with the referenced document. Further, Paragraph 123 contains legal conclusions to which no response is required.

124. With respect to Paragraph 124, Defendant states that the document referenced speaks for itself and denies all allegations inconsistent with the referenced document. Further, Paragraph 124 contains legal conclusions to which no response is required.

125. With respect to Paragraph 125, Defendant states that the document referenced speaks for itself and denies all allegations inconsistent with the referenced document. Further, Paragraph 125 contains legal conclusions to which no response is required. Defendant denies any remaining allegations in this Paragraph.

I. Defendant's Privacy Policy Does Not Excuse its Use of Pixel.

126. With respect to Paragraph 126, Defendant states that the documents referenced in this Paragraph speak for themselves and denies all allegations inconsistent

with the referenced documents. Further, Paragraph 126 contains legal conclusions to which no response is required. Defendant denies any remaining allegations in this Paragraph.

127. With respect to Paragraph 127, Defendant further states that the document referenced in this Paragraph speaks for itself and denies all allegations inconsistent with the referenced document. Defendant denies any remaining allegations in this Paragraph.

128. With respect to Paragraph 128, Defendant further states that the document referenced in this Paragraph speaks for itself and denies all allegations inconsistent with the referenced document. Defendant denies any remaining allegations in this Paragraph.

129. With respect to Paragraph 129, Defendant states that the documents referenced speak for themselves and denies all allegations inconsistent with the referenced documents. Defendant denies any remaining allegations in this Paragraph.

130. With respect to Paragraph 130, Defendant states that the documents referenced speak for themselves and denies all allegations inconsistent with the referenced documents. Defendant lacks sufficient knowledge or information to admit or deny any remaining allegations in this Paragraph.

131. With respect to Paragraph 131, Defendant states that the documents referenced in this Paragraph speak for themselves and denies all allegations inconsistent with the referenced documents. Defendant lacks sufficient knowledge or information to admit or deny any remaining allegations in this Paragraph.

132. With respect to Paragraph 132, Defendant states that the documents referenced in this Paragraph speak for themselves and denies all allegations inconsistent

with the referenced documents. Defendant lacks sufficient knowledge or information to admit or deny any remaining allegations in this Paragraph.

133. With respect to Paragraph 133, Defendant states that the documents referenced in this Paragraph speak for themselves and denies all allegations inconsistent with the referenced documents. Defendant denies any remaining allegations in this Paragraph.

134. With respect to Paragraph 134, Defendant admits only that Meta is an entity independent from Defendant. Defendant further states that the documents referenced in this Paragraph speak for themselves and denies all allegations inconsistent with the referenced documents. Further, Paragraph 134 contains legal assertions to which no response is required. Defendant denies any remaining allegations in this Paragraph.

135. With respect to Paragraph 135, Defendant states that the documents referenced in this Paragraph speak for themselves and denies all allegations inconsistent with the referenced documents. Further, Paragraph 135 contains legal assertions to which no response is required. Defendant denies any remaining allegations in this Paragraph.

136. With respect to Paragraph 136, Defendant states that the documents referenced in this Paragraph speak for themselves and denies all allegations inconsistent with the referenced documents. Further, Paragraph 136 contains legal assertions to which no response is required. Defendant denies any remaining allegations in this Paragraph.

137. With respect to Paragraph 137, Defendant states that the documents referenced speaks for themselves and denies all allegations inconsistent with the referenced

documents. Further, Paragraph 137 contains legal assertions to which no response is required. Defendant denies any remaining allegations in this Paragraph.

CLASS ALLEGATIONS

138. Paragraph 138 contains legal assertions to which no response is required. To the extent a response is required, Defendant denies the allegations in this Paragraph.

139. Paragraph 139 contains legal assertions to which no response is required. To the extent a response is required, Defendant denies the allegations in this Paragraph.

140. Paragraph 140 contains legal assertions to which no response is required. To the extent a response is required, Defendant denies the allegations in this Paragraph.

141. Defendant denies Paragraph 141.

142. Paragraph 142 contains legal assertions to which no response is required. Defendant denies any remaining allegations in this Paragraph.

143. Paragraph 143 and its subparagraphs contain legal assertions to which no response is required. To the extent a response is required, Defendant denies the allegations in this Paragraph and its subparagraphs.

144. Paragraph 144 contains legal assertions to which no response is required. To the extent a response is required, Defendant denies the allegations in this Paragraph.

145. Paragraph 145 contains legal assertions to which no response is required. To the extent a response is required, Defendant denies the allegations in this Paragraph.

146. Paragraph 146 contains legal assertions to which no response is required. To the extent a response is required, Defendant denies the allegations in this Paragraph.

147. Paragraph 147 contains legal assertions to which no response is required. To the extent a response is required, Defendant denies the allegations in this Paragraph.

CLAIMS

COUNT I

VIOLATIONS OF ELECTRONIC COMMUNICATIONS PRIVACY ACT ("ECPA") (18 U.S.C. § 2511(1)) (On behalf of Plaintiffs and the Nationwide Class)

148. Defendant restates its responses to the allegations in Paragraphs 1 through 147 and incorporates them herein by reference.

149. Paragraph 149 contains legal assertions to which no response is required. To the extent a response is required, Defendant denies the allegations in this Paragraph.

150. Paragraph 150 contains legal assertions to which no response is required. To the extent a response is required, Defendant denies the allegations in this Paragraph.

151. Paragraph 151 contains legal assertions to which no response is required. To the extent a response is required, Defendant denies the allegations in this Paragraph.

152. Paragraph 152 contains legal assertions to which no response is required. To the extent a response is required, Defendant denies the allegations in this Paragraph.

153. Defendant denies the allegations in Paragraph 153.

154. Paragraph 154 contains legal assertions to which no response is required. To the extent a response is required, Defendant denies the allegations in this Paragraph.

155. Paragraph 155 contains legal assertions to which no response is required. To the extent a response is required, Defendant denies the allegations in this Paragraph.

156. Paragraph 156 contains legal assertions to which no response is required. To the extent a response is required, Defendant denies the allegations in this Paragraph. Defendant denies any remaining allegations in this Paragraph.

157. Paragraph 157 contains legal assertions to which no response is required. To the extent a response is required, Defendant denies the allegations in this Paragraph.

158. Defendant denies the allegations in Paragraph 158.

159. Defendant denies the allegations in Paragraph 159.

160. Defendant denies the allegations in Paragraph 160.

161. Defendant denies the allegations in Paragraph 161.

162. Defendant denies the allegations in Paragraph 162.

163. Defendant denies the allegations in Paragraph 163 and its subparagraphs.

164. Defendant denies the allegations in Paragraph 164.

165. With respect to Paragraph 165, Defendant denies that Plaintiffs and Class Members are entitled to the referenced relief.

166. Defendant denies the allegations in Paragraph 166. Further, Defendant denies that Plaintiffs and Class Members are entitled to the referenced relief.

COUNT II
VIOLATION OF THE MINNESOTA WIRETAP ACT
Chapter 626A.02
(On behalf of Plaintiffs and the Nationwide Class)

167. Defendant restates its responses to the allegations in Paragraphs 1 through 166 and incorporates them herein by reference.

168. Paragraph 168 contains legal assertions to which no response is required. To the extent a response is required, Defendant denies the allegations in this Paragraph.

169. Paragraph 169 contains legal assertions to which no response is required. To the extent a response is required, Defendant denies the allegations in this Paragraph.

170. Paragraph 170 contains legal assertions to which no response is required. To the extent a response is required, Defendant denies the allegations in this Paragraph.

171. Defendant denies the allegations in Paragraph 171.

172. Paragraph 172 contains legal assertions to which no response is required. To the extent a response is required, Defendant denies the allegations in this Paragraph.

173. Paragraph 173 contains legal assertions to which no response is required. To the extent a response is required, Defendant denies the allegations in this Paragraph.

174. Paragraph 174 contains legal assertions to which no response is required. To the extent a response is required, Defendant denies the allegations in this Paragraph. Defendant denies any remaining allegations in this Paragraph.

175. Paragraph 175 contains legal assertions to which no response is required. To the extent a response is required, Defendant denies the allegations in this Paragraph.

176. Defendant denies the allegations in Paragraph 176.

177. Defendant denies the allegations in Paragraph 177.

178. Defendant denies the allegations in Paragraph 178.

179. Defendant denies the allegations in Paragraph 179.

180. Defendant denies the allegations in Paragraph 180.

181. Defendant denies the allegations in Paragraph 181.

182. With respect to Paragraph 182, Defendant denies that Plaintiffs and Class Members are entitled to the referenced relief.

183. Defendant denies the allegations in Paragraph 183. Further, Defendant denies that Plaintiffs and Class Members are entitled to the referenced relief.

184. Paragraph 184 contains legal assertions to which no response is required. To the extent a response is required, Defendant denies the allegations in this Paragraph. Further, Defendant denies that Plaintiffs and Class Members are entitled to the referenced relief.

185. Defendant denies the allegations in Paragraph 185. Further, Defendant denies that Plaintiffs and Class Members are entitled to the referenced relief.

COUNT III
VIOLATION OF THE MINNESOTA UNIFORM DECEPTIVE TRADE
PRACTICES ACT (“MUDTPA”) § 325D.43-48
(On behalf of Plaintiffs and the Nationwide Class)

186. Defendant restates its responses to the allegations in Paragraphs 1 through 185 and incorporates them herein by reference.

187. Defendant denies the allegations in Paragraph 187.

188. Paragraph 188 contains legal assertions to which no response is required. To the extent a response is required, Defendant denies these allegations in this Paragraph.

189. Defendant denies the allegations in Paragraph 189.

190. Defendant denies the allegations in Paragraph 190 and its subparagraphs.

191. Defendant denies the allegations in Paragraph 191.

192. Defendant denies the allegations in Paragraph 192.

193. Defendant denies the allegations in Paragraph 193.

194. Defendant denies the allegations in Paragraph 194 and its subparagraphs.

195. Defendant denies the allegations in Paragraph 195.

196. Defendant denies the allegations in Paragraph 196.

197. Defendant denies the allegations in Paragraph 197.

198. Defendant denies the allegations in Paragraph 198.

199. Paragraph 199 contains a hypothetical to which no response is required as there are no factual allegations to admit or deny. To the extent a response is required, Defendant lacks sufficient knowledge or information to admit or deny the allegations. Defendant denies the allegations in Paragraph 199.

200. Paragraph 200 contains a hypothetical to which no response is required as there are no factual allegations to admit or deny. To the extent a response is required, Defendant lacks sufficient knowledge or information to admit or deny the allegations. To the extent a response is required, Defendant lacks sufficient knowledge or information to admit or deny the allegations. Defendant denies any remaining allegations in this Paragraph.

201. Paragraph 201 contains legal assertions to which no response is required. To the extent a response is required, Defendant denies these allegations in this Paragraph. Defendant denies that Plaintiffs and Class Members are entitled to the referenced relief.

COUNT IV
Violation of the Minnesota Health Records Act Minn. Stat. §§ 144.291 and 144.293
(On behalf of Plaintiffs and the Nationwide Class)

202. Defendant restates its responses to the allegations in Paragraphs 1 through 201 and incorporates them herein by reference.

203. Paragraph 203 contains legal assertions to which no response is required. To the extent a response is required, Defendant denies the allegations in this Paragraph.

204. Defendant denies the allegations in Paragraph 204.

205. Defendant denies the allegations in Paragraph 205.

206. Paragraph 206 contains legal assertions to which no response is required. To the extent a response is required, Defendant denies the allegations in this Paragraph.

207. Defendant denies the allegations in Paragraph 207.

208. Defendant denies the allegations in Paragraph 208.

209. Paragraph 209 contains legal assertions to which no response is required. To the extent a response is required, Defendant denies these allegations in this Paragraph. Defendant denies any remaining allegations in this Paragraph. Defendant denies that Plaintiffs and Class Members are entitled to the referenced relief.

210. Paragraph 210 contains no allegations and Defendant therefore denies same.

COUNT V
UNJUST ENRICHMENT
(On behalf of Plaintiffs and the National Class)

211. Defendant restates its responses to the allegations in Paragraphs 1 through 210 and incorporates them herein by reference.

212. Defendant denies the allegations in Paragraph 212.

213. Defendant denies the allegations in Paragraph 213.

214. Defendant denies the allegations in Paragraph 214.

215. Defendant denies the allegations in Paragraph 215.

PRAYER FOR RELIEF

Defendant denies that Plaintiffs are entitled to judgment in their favor or to any relief including that requested in Sections a – g of Plaintiffs' Prayer for Relief.

DEFENSES

Without conceding that it bears the burden of proof as to any issue or defense, Defendant asserts the following defenses:

1. The Complaint fails to state a cause of action for which relief may be granted.
2. Plaintiffs' claims and the claims of the putative class members are barred, in whole or in part, because Plaintiffs and class members lack standing to assert the alleged claims.
3. Plaintiffs' claims and the claims of the putative class members are barred, in whole or in part, because Plaintiffs and class members lack standing to obtain the relief sought and/or available by law for the alleged claims.
4. Plaintiffs' claims and the claims of the putative class members are barred, in whole or in part, because the damages sought by Plaintiffs and the putative class members are speculative, remote, and/or impossible to ascertain.
5. Plaintiffs' claims and the claims of the putative class members are barred, in whole or in part, because the relief sought by Plaintiffs and the putative class members is speculative, remote, and/or cannot be ordered against Defendant.
6. Plaintiffs' claims and the claims of the putative class members are barred, in whole or in part, by the applicable statute(s) of limitations.

7. The alleged conduct of Defendant was not the proximate cause of the losses alleged by Plaintiffs and the putative class members.

8. Plaintiffs' claims and the claims of the putative class members are barred, in whole or in part, by Plaintiffs' and class members' failure or failures to mitigate damages.

9. Plaintiffs' claims and the claims of the putative class members are barred, in whole or in part, by the intervening or superseding acts of a third party or third parties.

10. Plaintiffs' claims and the claims of the putative class members are barred, in whole or in part, because a third party or third parties are responsible for any damages Plaintiffs and class members suffered.

11. Plaintiffs' claims and the claims of the putative class members are barred, in whole or in part, because Plaintiffs' and class members' own actions are responsible for any damages and/or harms Plaintiffs and class members suffered.

12. Plaintiffs' claims and the claims of the putative class members are barred, in whole or in part, because Plaintiffs and class members knew or should have known of Defendant's actions at the time Plaintiffs and class members used Defendant's website.

13. Plaintiffs' claims and the claims of the putative class members are barred, in whole or in part, by Plaintiffs' and class members' assent to certain terms and conditions.

14. Plaintiffs' claims and the claims of the putative class members are barred, in whole or in part, by Plaintiffs' and class members' consent to Defendant's actions.

15. Plaintiffs' claims and the claims of the putative class members are barred, in whole or in part, because Plaintiffs and class members actions diminished the value of any damages.

16. The damages, if any, suffered by Plaintiffs and the putative class members in connection with their use of Defendant's website are limited to the amount they paid to access the website.

17. Any monetary damages awarded to Plaintiffs and the putative class members must be reduced to the extent that Plaintiffs and the putative class members owe any amounts to Defendant.

18. Plaintiffs' claims and the claims of the putative class members are barred, in whole or in part, because they are preempted by federal law.

19. Plaintiffs' claims and the claims of the putative class members are barred, in whole or in part, because the causes of action did not arise in Minnesota or under Minnesota law.

20. Plaintiffs' claims and the claims of the putative class members are barred, in whole or in part, by the First and Fourteenth Amendment of the United States Constitution as Defendant's alleged conduct is protected speech.

21. Aggregating the claims and damages on a class-wide would be excessive and violate Defendant's due process rights.

22. To the extent that Plaintiffs' claims and the claims of putative class members rely on regulatory agency guidance, such guidance is not entitled to deference, including but not limited to, because it is inconsistent with the relevant statutes and/or regulations.

23. To the extent that Plaintiffs' claims and the claims of putative class members rely on regulatory agency guidance or changes in law, Plaintiffs' claims and the claims of

the putative class members are barred, in whole or in part, because such guidance and changes in law only apply prospectively.

24. Plaintiffs' claims and the claims of the putative class members are barred, in whole or in part, by the doctrines of waiver, release, unclean hands, estoppel, and laches.

DEFENDANT'S DEMAND FOR TRIAL BY JURY

Defendant demands a trial by jury of all issues so triable.

DEFENDANT'S PRAYER FOR RELIEF

WHEREFORE, having stated its answer and defenses, Defendant's prayer for relief is as follows:

1. That this action be dismissed with prejudice;
2. That this action proceeds between the named parties only, and that no class action be permitted under Fed. R. Civ. P. 23 and no class be certified under Fed. R. Civ. P. 23(c);
3. For attorneys' fees and costs as permitted by law; and
4. For such other and further relief as this Court deems just and proper.

RESERVATION OF RIGHTS

Defendant reserves the right to assert additional defenses, counterclaims, and/or third-party claims that may appear or become available as discovery and investigation progresses, and hereby reserves the right to amend its Answer to assert any such defenses or claims.

Dated: November 21, 2024

s/ Nicole M. Moen

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